

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE

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SANDRA C. AFFARE )  
Plaintiff, ) CIVIL ACTION FILE NO.:  
 )  
v. )  
 ) JURY TRIAL DEMAND  
UNIVERSITY OF TENNESSEE )  
AT CHATTANOOGA, )  
Defendant. )

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**VERIFIED COMPLAINT FOR DAMAGES**

Sandra C. Affare, Ph.D. (“Dr. Affare”), Plaintiff in the above styled action, by and through the undersigned counsel, files her Verified Complaint for Damages and Demand for Trial. In support of thereof, Plaintiff would state to the Court as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff Affare, brings this action against the University of Tennessee at Chattanooga (“UTC”) for violations of Title VII of the Civil Rights Act of 1984, (“Title VII”) pursuant to 42 U.S.C. §§2000e et seq., and the Age Discrimination in Employment Act 1967, (“ADEA”); as codified, 29 U.S.C. §§621 to 634, 2000e-17.
2. Plaintiff Affare is female, over forty years of age, and is a person of African American heritage.

3. At all times relevant to this action, Plaintiff Affare served as a faculty member within the University of Tennessee constituent campus system.

4. Plaintiff Affare was previously employed as a faculty member with the University of Tennessee Space Institute (“UTSI”) in a full-time, non-tenure-track appointment as an Assistant Professor of Practice from February 1, 2018, until July 31, 2021.

5. After the UTSI non-tenure-track appointment ended, Plaintiff Affare continued to serve in a part-time non-tenure-track adjunct position with UTC.

6. Plaintiff Affare applied for the next available tenure-track position in the UTC EMT Department.

7. Plaintiff Affare’s application was denied and the tenure-track position was granted to a male applicant, under 40 years of age.

#### **JURISDICTION**

8. This Court has jurisdiction over this action pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. 2000e to 2000e-17, on the basis of gender, and the Age Discrimination in Employment Act of 1967, (ADEA); as codified, 29 U.S.C. §§ 621 to 634, 2000e-17 on the basis of age.

9. This Court also has supplemental jurisdiction over Plaintiff’s related claims arising under state and local laws pursuant to 28 U.S.C. 1337(a), specifically, the State of Tennessee Human Rights Act.

## VENUE

10. Venue is proper in this district under 28 U.S.C. 1331(b)(2), in that a substantial part of the events or omissions giving rise to the claims occurred in Hamilton County Tennessee.

## CONDITIONS PRECEDENT

11. On January 13, 2021, Plaintiff Affare filed a discrimination charge with the Equal Employment Opportunity Commission (“EEOC”) in which she identified acts on the part of the College of Engineering and Computer Science at the University of Tennessee at Chattanooga (“UTC”) which constitutes illegal discrimination on the basis of race, sex, age, and national origin.

12. On October 28, 2021, Plaintiff Affare received notification from EEOC that the required Notice of Right to Sue from the EEOC was available on the EEOC portal.

13. The EEOC Notice of Right to Sue was received on October 28<sup>th</sup>, 2021, and is attached as exhibit one.<sup>1</sup>

14. The Complaint has been timely filed within ninety days of the receipt of the Notice of Right to Sue.

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<sup>1</sup> A true and accurate copy of the Notice of Right to Sue was issued by EEOC on October 27, 2021 and received via e-mail by Dr. Affare on October 28, 2021, and is incorporated herein and attached hereto as Exhibit 1.

15. Plaintiff, Dr. Sandra C. Affare, has fully complied with all of the procedural prerequisites to jurisdiction in United States District Court for the Eastern District of Tennessee.

**PARTIES TO THE COMPLAINT**

16. Plaintiff, Affare is female and over the age of forty (40).

17. Plaintiff Affare is an individual citizen and resident of the State of Tennessee, County of Hamilton which is located in the judicial district of the U.S. District Court for the Eastern District of Tennessee.

18. Plaintiff Affare is an employee, as defined by Title VII, and the ADEA.

19. Defendant, University of Tennessee at Chattanooga, (UTC) is an employer as defined by Title VII of the Civil Rights Act 1964, and the Age Discrimination in Employment Act of 1967, (ADEA).

20. Defendant, UTC, can be served with process by serving its registered agent, the Office of the Attorney General for the State of Tennessee, whose principal place of business is located at 1331 Circle Park Drive, Knoxville, TN 37916.

## **FACTS**

21. Plaintiff Affare asserts and incorporates by reference, Paragraphs 1-20 as if fully set forth herein.
22. Plaintiff's claims for relief arise from the discriminatory acts of defendant, University of Tennessee at Chattanooga and the impact of its practices and policies on members of protected classes under federal and state equal employment opportunity statutes and laws.
23. Plaintiff Affare is female and over forty (40) years of age.

### **COUNT 1:** **DISCRIMINATION BASED ON GENDER IN VIOLATION** **OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

24. Plaintiff Affare realleges and incorporates Paragraphs 1 through 24 of the Complaint as if fully set forth herein.
25. Plaintiff Affare requested that she be considered for a full time, non-track-track Lecture Position opening in the UTC EMT Department and was advised that the position had to be posted. No further action was taken to determine if the available non-track-track position could be filled by other means.
26. It is Plaintiff Affare's information and belief that the stated non-track-track position could be filled without a posting as it appeared to be done for UTC professional staff who are not racial minorities.

27. Plaintiff Affare further asserts that the UTC EMC Department treats similarly situated male employees more favorably women.

28. All tenured-track instructors in the UTC EMC Department are male.

29. The last six hires for tenured-track positions in the UTC EMC Department were male.

30. And, Dr. Affare's application for a track-track position was denied, and a male applicant who was under the age of 40 was selected.

31. Plaintiff Affare suffered damages as a result of UTC EMC Department's indifference to unlawful discriminatory, including emotional distress, past and future lost wages and benefits and the cost of bring this action in an amount to be determined at trial.

**COUNT II:**

**DISPARATE IMPACT FAILURE TO PROMOTE**

32. Plaintiff Affare is African American, female and over forty years of age.

33. Dr. Affare applied for a tenure-track position opening in the UTC EMT Department.

34. Plaintiff Affare was uniquely qualified for the position in the UTC EMT Department, given her background, work history, education and professional credentials.

35. Plaintiff Affare application was rejected and track-track position was awarded for a male applicant who under forty years of age,

**PLAINTIFF AFFARE IS UNIQUELY QUALIFIED  
FOR A TRACK-TRACK POSITION**

36. Plaintiff Affare is a proud graduate of the UTC College of Engineering and Computer Science, and was instrumental in funding the UTC Ron Cox Endowment Fund, which will provide financial support to future students within the Engineering Management and Technology Department.

37. Plaintiff Affare came to UTC EMT as a valued addition to the adjunct teaching staff, with twenty or more years of project management experience, and thirteen years of research and development experience in the engineering field.<sup>1</sup>

38. She came to the EMC Department as a part-time adjunct professor with Project Management Professional (PMP) credentials, which she has retained throughout her tenure the UTC EMC Department.

39. The record will show that Plaintiff Affare has been a part-time Adjunct Instructor at UTC in the EMT Department since the Spring of 2018.

40. As documented in the attached Curriculum Vitae (CV)<sup>i</sup>, Plaintiff Affare was initially assigned as an instructor for ENGM 5540, which is a

graduate-level course in Technical Project Management, that is a required subject for graduates of the Engineering Management Program.

41. Plaintiff Affare is one of the limited numbers of female instructors in the UTC EMT Department with direct student contact.

42. Additionally, through her hard work and dedication, she has garnered the respect and admiration of students, industry leaders, and community organizations.

43. The record will show that the number of female students in the Engineering Management and Technology Department grew 16% between Fall 2019 and Fall 2020.

44. Plaintiff Affare is directly responsible for the production of more than 600 student credit hours between the Spring of 2018 and the Fall of 2020.

**UTC EMC DEPARTMENT  
HAS NOT EMBRACED UCT'S STRATEGIC MISSION**

45. UTC has implemented a strategic plan in which each Department is expected to plan, and support the goals and strategies outlined in its Mission Statement.

**UTC Mission Statement:**

*UTC is a driving force for achieving excellence by actively engaging students, faculty, and staff; embracing diversity and inclusion; inspiring positive change; and enriching and sustaining our community.*

46. There are currently no female instructors in a tenure-track position in the UTC EMT Department. All current tenure-track positions are held be male instructors.

47. The last six tenure-track faculty hires in the UTC EMT Department have all been male.

48. An external review of the UTC Master of Science in Engineering Management Department was conducted in the year 2020.

49. On page seven (7) of the undated draft report that was provided to EMC instructors, it is noted that students enrolled in the MSEM Program appear to be diverse, with students from multiple groups of minorities and genders, and that the facility has a diverse mix that include Asian, Hispanic, African American, and white faculty.<sup>2</sup>

50. However, it is also noted in the draft copy of the External Review that MSEM faculty is all male and “an addition of a female faculty in the near future would be appropriate”.<sup>3</sup>

51. Even with the stated need for gender diversity in the external review, Plaintiff Affare was not awarded the posted track-track position in the UTC EMT

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<sup>2</sup> Master of Science in Engineering Management, University of Tennessee Chattanooga, External Reviewer Report by Dr. Resit Unal, Professor of Engineering Management and Systems Engineering, Old Dominion University.

<sup>3</sup> See – Master of Science in Engineering Management, University of Tennessee Chattanooga, External Reviewer Report by Dr. Resit Unal, Professor of Engineering Management and Systems Engineering, Old Dominion University – page 7.

Department. Despite the fact that she was uniquely qualified to assume the role in light of her superior performance, her many achievements, and the stated need for gender diversity.

52. It is Plaintiff's Affare's information and belief that the hiring matrix which used a mix of subjective observations and numeric evaluation of the applicant's ability to perform critical job functions had a disparate impact on female applicants due to known preferences within the UTC EMT to hire qualified male applicants.

53. Of equal importance is the fact that **NO VALUE** was apportioned to diversity measures, and as a result, critical diversity goals were not imbedded in the employment evaluation process to ensure that those components were consider in the applicant evaluation.

54. The UTC EMT Department failed to implement UTC's stated mission in its hiring practices, giving a voice to the implicit bias preferences inherent in a learning environment where male track-track instructors are the norm.

*UTC is a driving force for achieving excellence by actively engaging students, faculty, and staff; embracing diversity and inclusion; inspiring positive change; and enriching and sustaining our community.*

55. UTC has implemented a strategic plan in which each department is expected to plan and support according to the goals and strategies outlined.

Goal 4 provides a target and activities to accomplish the goal which supports the mission to embrace diversity and inclusion as it relates to staffing.

56. To achieve this goal, UTC has a duty to develop, implement, and assess an institutionalize a diversity plan that defines and sets clear metrics for diversity outcomes that has the power to overcome personal preferences.

57. The decision-making process used by UTC MEC Department track-track hiring process contained elements of both subjective criteria, and objective measures.

58. It must be noted that Plaintiff Affare obtained the best outcome when a scored decision-making rubric with objective measures was used to determine advancement in the selection process.

59. It is Plaintiff's Affare's contention that the weighted use of subjective criteria to determine advancement in the hiring process and ultimately, the selection of the most qualified candidate, had a disparate impact on female applicants based on the composition of EMC and the open and obvious preference for male applicants.

### **III. STATEMENT OF CLAIM.**

60. This action is brought for discrimination in employment pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-

in Employment Act of 1967, (ADEA); as codified, 29 U.S.C. §§ 621 to 634, and relevant state law, specifically, the State of Tennessee, Human Rights Act.

**UNEQUAL TERMS AND CONDITIONS OF EMPLOYMENT  
BASED ON RACE**

61. The first alleged discriminatory acts occurred on September 6, 2019, when the EMT Department Head stated that he was not able to approve Plaintiff Affare's request for a lateral move to a full-time non-track-track position without going through a formal selection process.

62. Plaintiff Affare did in fact request a meeting the EMT Department Head to discussing options for advancement to full time opening within the EMT Department.

63. Plaintiff Affare made a direct request to the EMT Department Head to be moved into a non-track-track lecturer position that was abruptly vacated by Dr. Alexander Sokolov.

64. Plaintiff Affare's request was promptly and soundly rejected without further consideration or any form of follow up based on the stated need to for a formal selection process.

65. Plaintiff Affair observed that UTC placed Laura Pou, Assistant Vice Chancellor of HR, and Dr. Matt Matthews, Vice Provost, in positions where they acted in an interim role without going through a formal selection process. Both of the identified parties are not racial minorities.

66. It is further noted that there was no evidence of a public search before either of these candidates were named in their position.

67. The same consideration was asked of the EMT Department Head during the September 6<sup>th</sup> meeting. There is no question that Plaintiff Affare was qualified for the vacated position based on the favorable reviews from her students and her teaching record as stated in the UTC Position Statement to the EEOC.

#### **V. RELIEF.**

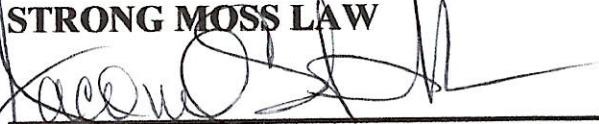
1. The culture of exclusivity vs inclusion has affected a term, condition, or privilege of employment.
2. Plaintiff has incurred lost wages and benefits as a result of Defendant's decision to hire a male candidate under the age of forty in the track-track position in lie of hiring a uniquely divers, candidate.
4. Plaintiff has incurred on-going attorney fees and litigation cost.
5. Plaintiff is entitled to lost wages and benefits, compensatory damages, and attorney fees as a matter of law.

**WHEREFORE**, Plaintiff demands the following:

1. That proper process be issued and be served upon Defendant through its registered agent and that Defendant be required to appear and answer the Complaint within the time required by law.
2. That Plaintiff be awarded a judgment against Defendant UTC in the amount of \$287,000.00.
3. That Plaintiff is placed in the next available Associate Professor, full time track-track position in the Engineering Management Department the University of Tennessee at Chattanooga.
4. That Defendant be required to conduct mandatory, in person Diversity Training which highlights Unconscious Bias for all UTC College of Engineering and Computer Science Department Heads, Deans, Associate Deans, Managers and Supervisors.
5. A written policy for tenure and promotions per department and college that is monitored by the Provost's Office, and followed.
6. That the cost of this action be awarded to Plaintiff.
7. That such further and other general relief to which Plaintiff may be entitled, including attorneys' fees as a prevailing party.

Respectfully submitted.

**STRONG MOSS LAW**

  
**JACQUELINE STRONG MOSS, Esq.**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE**

DR. SANDRA C. AFFARE, )  
v. )  
Plaintiff, )  
UNIVERSITY OF TENNESSEE )  
AT CHATTANOOGA )  
Defendant. )  
No. \_\_\_\_\_  
JURY TRIAL DEMANDED

## **CERTIFICATE OF SERVICE**

I hereby certify that on January 25, 2022, the foregoing Complaint and was electronically filed with the Clerk of the Court using the CM/ECF system which will automatically send email notification of such filing to the following counsel of record:

Yousef A. Hamadeh  
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50 Founders Hall  
Chattanooga, TN 37403

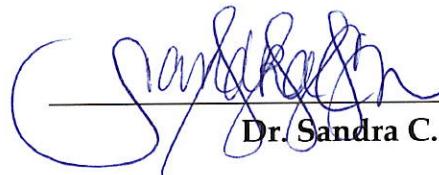
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE

STATE OF TENNESSEE  
COUNTY OF HAMILTON

I, Dr. Sandra C. Affare, being duly sworn according to law, state that the facts set out in the above petition are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Dr. Sandra C. Affare

Sworn to and subscribed before me this 24<sup>th</sup> day of January, 2022

  
\_\_\_\_\_  
Cathy H. Kerley  
Notary Public  
  
My Commission expires: 10/11/22